

South Portland City Council
Position Paper of the City Manager

Subject:

ORDINANCE #11-17/18 (map only) – Amending Chapter 27 “Zoning,” regarding the CS and PO Zones map changes. Passed first reading on December 6, 2017 and postponed to January 17, 2018. ROLL CALL VOTE. Passage requires five (5) affirmative votes.

Position:

This item concerns a zoning map change that would place lots identified on Tax Map 69 as Lots 9 and 10, and Map 73 as Lot 14 into the Suburban Commercial District (CS) from the Professional Office District (PO). This ordinance passed first reading on December 6, 2017 following a workshop discussion held on November 13, 2017. The Planning Board held a public hearing on January 9, 2017. By a vote of 3-2 (Boudreau and Derose; Laidley absent; District 2 vacant), the board recommended approval of the zoning map change. This amendment is consistent with the City’s Comprehensive Plan. Attached is a memo from Planning Director Tex Haeuser and a copy of the Planning Board report.

Tex will be joined by Assistant City Manager Josh Reny at Wednesday’s meeting to answer questions.

Requested Action:

Council passage of Ordinance #11-17/18 (map only).



City Manager

To: Scott Morelli, City Manager
From: Tex Haeuser, Planning Director 
Cc: Joshua R. Reny, Assistant City Manager and Economic Development Director
Mary Perry, Administrative Assistant
Sally Daggett, Esq., Corporation Counsel
Matt LeConte, Code Enforcement Officer
Date: City Council Meeting of January 17, 2018
Re: **Proposed CS Zone Side and Rear Yard Setback Standards Text Amendment**

Planning Board Recommendation

At a public hearing on January 9th, the Planning Board made a recommendation to the City Council with the following vote:

K. Gatti motioned to send a favorable recommendation to the City Council for the proposed CS zone map amendment for the extension of the CS zone to 505 and 707 Sable Oaks Drive and to the PO zone portion of 165 Running Hill Road.

L. Dillon seconded; 3-2 (L. Boudreau and M. DeRose opposed, W. Laidley absent, District 2 vacant).

Overview

On November 13, 2017, the City Council held a workshop to consider requests from:

1. Ocean Properties for a zoning map change that would place all of 165 Running Hill Road in the CS zone. This was a mapping oversight when the recent amendments were made and the parcel was inadvertently split between the CS and PO zones. It was never the intent to split any parcel between two zones and staff is recommending the portion of the parcel still in the PO zone be brought into the CS zone. There is currently interest in building a senior assisted living facility at that location, which would be located across the street from the newly built Sable Oaks Lodge Senior Living.
2. Kevin Bunker of Developers Collaborative and Tim Soley, owner of 505 Sable Oaks Drive, for a zoning map change that would place the parcel entirely in the CS zone. It is currently zoned PO. They are interested in creating a senior residential development, and residential uses are not allowed in the PO zone.
3. V&C Enterprises, Inc. for a zoning text change related to space and bulk regulations in the CS zone, specifically side and rear yard setbacks. This section of the ordinance was not amended earlier this spring, but as the site plan for this residential project is being designed, the prohibition on parking in the side yard could pose some challenges. Staff concurs this regulation may be too restrictive and could support the proposed amendment.

In order to streamline the approval process, the applicants agreed after the workshop to a staff suggestion that they combine their requests into a single application.

At the First Reading public hearing on December 6th, the City Council voted to separate the zoning map and zoning text amendments, and while the zoning map proposal was given First Reading approval and forwarded to the Planning Board, the text amendment was postponed to the first Council meeting in January. On January 3rd, the text amendment failed First Reading unanimously.

Public Notice

Legal ads for this hearing were published in the *Portland Press Herald* on December 23rd and January 1st. Written notices were mailed on December 21st to owners of the 14 properties within 500 feet of the lots proposed for rezoning, to the applicant, and were sent via email to the Conservation Commission, Planning Board, and City Council. In addition, a public hearing notice was posted at City Hall on December 21st.

CS vs. PO

The purpose of the Professional Office zone, in part, is to preserve an environment for large-scale conference, research, and administrative facilities as well as combined residential and recreational uses. The Suburban Commercial zone provides for professional offices, urban residential development, and other uses. There is a large degree of overlap between the uses permitted in each zoning district.

As was discussed in the previous re-zoning of portions of Sable Oaks from PO to CS, Ocean Properties' original vision of residential development enhanced by a golf course amenity has evolved into one that no longer includes the golf course, thus making it logical to convert much of Sable Oaks to CS.

Contiguous CS Mapping

The zoning map change request from Kevin Bunker and Tim Soley had hoped to include the abutting lot at 707 Sable Oaks Drive so that changing their lot at 505 Sable Oaks Drive would not create a non-contiguous, single-lot "island" of CS zoning. This effort has been successful, and Charles Bayer, the owner of 707 Sable Oaks Drive has joined the effort as a co-applicant.

Comprehensive Plan

The following sections from pages 6-37 and 6-38 of the Land Use Goals and Policies chapter of the 2012 Comp Plan support the proposed rezoning:

- The diversity of uses in the Maine Mall area will increase both within the overall area and within the currently single-use area to create much more of a mixed-use environment. This could include the addition of additional residential uses in the area.
- The Sable Oaks area and adjacent areas on the Turnpike side of Running Hill Road should continue to be designated as an office-recreational-residential area that provides a high-quality office park environment. The remainder of the area should essentially be treated as a mixed-use district in which a wide diversity of non-residential and residential uses are allowed and which encourages an intensification of use to create more of a unified destination rather than a collection of individual developments.

Planning Board Public Hearing Minutes

The following are the minutes of the Planning Board's January 9th public hearing:

Item #3. PUBLIC HEARING – Zoning Map Change – Rezoning from PO to CS – 505 and 707 Sable Oaks Drive and Portion of 165 Running Hill Road – Ocean Properties, Developer Collaborative, and Soley Oaks, LLC

Ocean Properties, Developers Collaborative, and Soley Oaks, LLC have requested a land use recommendation to rezone their properties from the Professional Office District (PO) to the Suburban Commercial District (CS). The properties are located at 165 Running Hill Road and 505 and 707 Sable Oaks Drive. The properties are further identified as Assessor's Map 69, Lots 9 and 10, and Assessor's Map 73, Lot 14, located within the Professional Office District (PO).

Per Ordinance Section 27-115 (g), the Planning Board shall make a recommendation to the City Council regarding this request.

Legal ads for this hearing were published in the *Portland Press Herald* on December 23rd and January 1st. Written notices were mailed on December 21st to owners of the 14 properties within 500 feet of the lots proposed for rezoning, to the applicant, and were sent via email to the Conservation Commission, Planning Board, and City Council. In addition, a public hearing notice was posted at City Hall on December 21st.

T. Hauser introduced the item and showed the location on a map. He explained that most of this area is rezoned from PO to CS and showed the zoning map. He explained that there were separate requests for map changes and a text amendment around the same time. They all went through without much comment or concern at a City Council workshop and staff suggested they combine the requests and apply jointly.

He explained that for Ocean Properties, there was a mapping oversight when the recent amendments were made and the parcel was mistakenly split. This will fix that map inaccuracy and correct the zoning, bringing the entire lot to CS. The second part is from Kevin Bunker of Developers Collaborative and Tim Soley, who owns 505 Sable Oaks Drive. They felt it would be beneficial to have the lot rezoned to CS as they are interested in senior housing and the PO zone does not allow residential uses. They were able to bring along Charles Bayer of 707 Sable Oaks Drive as a co-applicant. This, in addition to 505 Sable Oaks Drive, would create a single lot "island" of CS zoning. These parts between Ocean Properties, Mr. Bayer, Mr. Soley, and Mr.

Bunker create the co-application to rezone these properties from PO to CS. This has proceeded to a certain extent through Council. At First Reading on December 6th, the third part—text amendments—were separated out. Most recently, there was a continuation of the First Reading for the text amendment and it failed unanimously.

The purpose of PO is, in part, to serve an environment for largescale conference, research, and administrative facilities as well as combined residential and recreational uses. The Suburban Commercial zone provides for professional offices, urban residential development, and other uses. There is a large degree of overlap between the uses permitted in each zoning district. He explained that Ocean Properties is moving towards residential development, which is why there is a desire to move to CS zoning. He reviewed the relation to the Comprehensive Plan, reading sections from pages 6-37 and 6-38 of the Land Use Goals and Policies chapter.

This is scheduled for a Second Reading with City Council next week. The recommendation tonight is for the Planning Board send a favorable recommendation to the City Council in support of the proposed amendments to the Official Zoning Map of the City of South Portland to rezone a portion of Assessor's Tax Map 69, Lots 9 and 10 [707 and 505 Sable Oaks Drive respectively] and Assessor's Tax Map 73, Lot 14 [165 Running Hill Road] located within the Professional Office (PO) District to the Suburban Commercial (CS) District.

Kevin Bunker, Developers Collaborative, and Pete Connell, Ocean Properties, introduced themselves.

PUBLIC HEARING OPEN

Russ Lunt, Brigham St., thinks it is a wonderful idea to rezone to open up development. He is supportive of it.

L. Boudreau is concerned that they're eating away at the PO zone. They had hopes for the zone when it was created; they don't have a lot of space designated for professional office buildings and they will end up scattered throughout. She understands the Ocean Properties request but the other two seem like a way of eating away at the PO zone.

T. Haeuser said the PO zone talks about recreational amenities of 100 acres or more associated with some developments. It's very specific in that way for the golf course. The idea behind it was for corporate headquarters. For example, one building was the Bass Shoe headquarters and now it's various insurance companies. There is a substantial office building nearby. He doesn't think they will see much change; the buildings could be PO or CS. The difference with CS is more residential being brought in than originally considered.

L. Boudreau referred to the map. She can see how the hotel makes sense. She hates to see them lose opportunities for corporate headquarters. Businesses would be fortunate to be near the highway and airport. To move to residential housing seems like they may be giving up better opportunities. She needs to be convinced.

Kevin Bunker, Developers Collaborative, said Mr. Soley had a similar experience with this parcel and an experience with another parcel they controlled in Brickhill. The last lot was permitted for an office use in 2007. Ultimately, he watched them go through gyrations to lure a tenant there through the depression and after. They found consistent feedback that the office market has changed and the suburban office park isn't what people want anymore. They were consistently unsuccessful and finally decided residential works now. They didn't see the office as

just a down-cycle, but the office market was going the wrong way and they didn't see it coming back. They pursued the zone change to residential and were successful. Mr. Soley has had a similar experience with this land. Mr. Soley is primarily an office developer and he himself is more residential. Mr. Soley is very successful but he's been unable to get any traction before, during, and after the recession here. They don't feel that market is coming back. He noted that WEX is moving to downtown Portland.

L. Boudreau sees this site as easier access and easier for employees. Maybe it's glamorous to be downtown, but to have to work there isn't always easy. She hates to give these up for that reason. She's okay with Ocean Properties and can see it's connected on that side but hates giving up the parcels here.

L. Dillon thinks it's great to bring residential and mixed-use to the area because the Comprehensive Plan has that as the eye towards the future for this area. She's not concerned but part of bringing more residential means there needs to be a conversation about the infrastructure for things like sidewalks, accessibility, and parking. Making it a more residential feel will take more work than a zone change.

M. DeRose asked about senior housing; the Comprehensive Plan seems to suggest that there's plenty already. She can see housing, but the tradeoff of potential high-paying jobs that come with the PO zone to senior housing may not be a good tradeoff.

K. Carr said that he is trusting that financial studies were done to find the highest and best use of the property. He gathers from Mr. Bunker's comments that the highest and best use is what is more allowed in the CS zone versus just the PO zone.

K. Bunker said yes. It is true that they're leaning towards senior housing but that doesn't rule other things out. They are comfortable that is the highest and best use of the property.

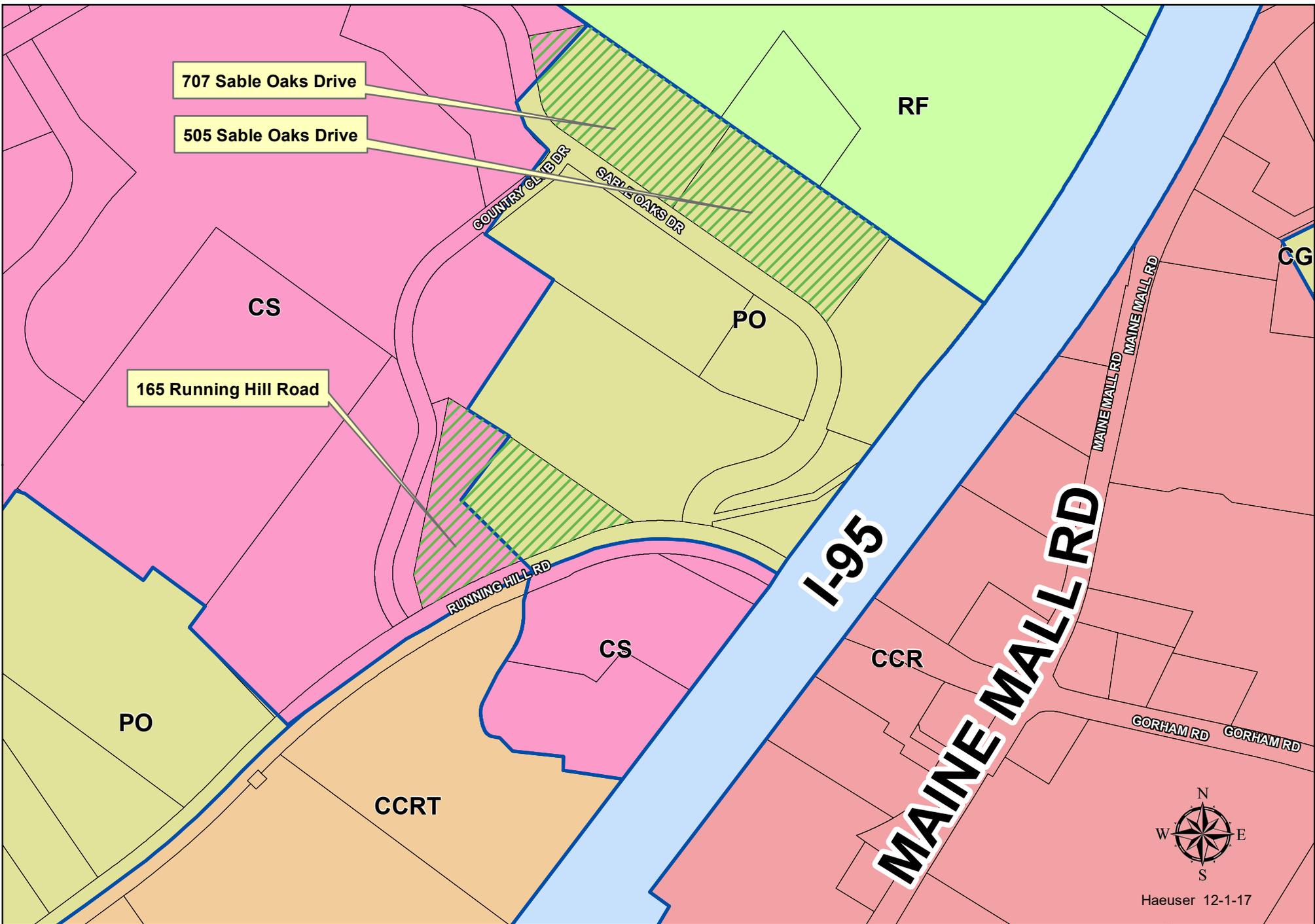
PUBLIC HEARING CLOSED

K. Gatti motioned to send a favorable recommendation to the City Council for the proposed CS zone map amendment for the extension of the CS zone to 505 and 707 Sable Oaks Drive and to the PO zone portion of 165 Running Hill Road.

L. Dillon seconded; 3-2 (L. Boudreau and M. DeRose opposed, W. Laidley absent, District 2 vacant).

Attachment

1. Proposed PO to CS Zone Map Amendment



Fragmentary Zoning Map: Proposed Rezoning of Portions of the PO Zone to CS

 Proposed to be Zoned as CS

